

RULE

Office of the Governor
Crime Victims Reparations Board

Compensation to Victims (LAC 22:XIII.Chapters 1-5)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and under the authority of the Crime Victims Reparations Act, R.S. 46:1801 et seq., the Crime Victims Reparations Board has amended its rules concerning compensation to victims of crime. These rules remove policy constraints of automatic denial and automatic reduction of awards for certain victims, remove life insurance as a collateral offset for certain claimants, and increase the maximum amount of lost wages and loss of support awards. Furthermore, the amendments include provisions for crime scene evidence, an area previously not covered by board rule; will allow for quicker delivery of board checks; and will ensure compliance with two federal grant requirements.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 1. Authority and Definitions

§103. Definitions

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Collateral Source or Resource—source of benefits for pecuniary loss awardable, other than under these rules, which the claimant has received or which is readily available to him/her from any or all of the following:

* * *

f. proceeds of a contract of insurance payable to the claimant for pecuniary loss sustained by the claimant by reason of the crime.

* * *

Pecuniary Loss—amount of expense reasonably and necessarily incurred by reason of personal injury, as a consequence of death, or a catastrophic property loss, and includes:

* * *

b. as a consequence of death:

* * *

iii. care of a child or children enabling the surviving spouse of a victim or the legal custodian or caretaker of the deceased victim's child or children to engage in lawful employment, where that expense is not otherwise compensated for as a pecuniary loss for personal injury.

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AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996).

Chapter 3. Eligibility and Application Process

§301. Eligibility

To be eligible for compensation, an individual must have suffered personal injury as a result of a violent crime.

1. Contribution

a. The Crime Victims Reparations Board may vote not to make an award to a claimant who is a victim, or who claims an award of reparations through a victim, when any of the following occurs:

i. - iii. ...

b. As Louisiana law requires all drivers and front seat passengers to use seat belts, victims not wearing a seat belt and injured or killed by a driver in violation of R.S. 14:98 (DWI), if found eligible otherwise, may have their award reduced. The total maximum award allowed under current policy may be reduced by 50 percent.

* * *

3. Unjust Enrichment

- a. When determining unjust enrichment or substantial economic benefit to offenders in applications involving domestic violence, the board will consider the following factors:
- i. Has the victim reported the incident to the authorities and has the victim cooperated with their reasonable requests?
 - ii. In determining whether enrichment is substantial or inconsequential, factors to be considered include:
 - (a). the amount of the award,
 - (b). the total amount of income to the household, and
 - (c). whether a substantial portion of the award will be used directly by or on behalf of the offender.
- b. If the offender has direct access to a cash award and/or if a substantial portion of it will be used to pay for his living expenses, that portion of the award that will substantially benefit the offender may be reduced or denied.
- c. The availability of collateral resources, including but not limited to court-ordered restitution and medical insurance, will be examined. A determination shall be made:
- i. as to whether the offender has a legal responsibility to pay,
 - ii. whether the offender has resources to pay,
 - iii. whether payment is likely.
- d. The victim shall not be penalized for the failure of an offender to meet legal obligations to pay for the costs of the victim's recovery.
- e. If the offender fails to meet legal responsibilities to pay restitution or provide for the medical and support needs of a spouse or child, or if the offender impedes payment of insurance that may be available to cover a spouse's or child's expenses, the program should attempt to meet the victim's needs to the extent allowed.
- f. Payments to third-party providers will be made wherever possible.
- g. Child victims will not be penalized by denying or delaying payment when offender or collateral resources are not forthcoming.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996).

§303. Application Process

A. Claimant Responsibility

1. - 5. ...

6. The victim/claimant is required to use claim forms to seek additional compensation after the original award is made.

B.1. - 2. ...

C. Board Staff Responsibility

1. - 4. REPEALED

5. Check distribution will be as follows:

a. Provider checks will be issued directly to providers from the board office.

b. Victim/claimant checks will be mailed directly from the board office unless the sheriff specifies that he wishes to have them mailed directly to the sheriff's claim investigator for personal distribution.

D.1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996).

Chapter 5. Awards

§501. Payment of Awards

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AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), repromulgated LR 22:710 (August 1996).

§503. Limits on Awards

A. - B.3. ...

C. Funeral Expenses

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2. Death and/or burial insurance taken out specifically for the purpose of burial must pay first. The amount of life insurance proceeds paid may be considered as a collateral source. If a claimant is the dependent or spouse of the victim, life insurance will not be considered a collateral offset.

3. - 4.c. ...

D. Lost Wages/Earnings

1. - 3.b. ...

4. The board may reimburse lost wages/earnings with a maximum of \$10,000.

4.a. - 6. ...

7. If a victim does not return to work, the lost wage period may be no longer than one year.

8. - 12. ...

E. Loss of Support

1. - 2. ...

3. The board may reimburse loss of support with a maximum of \$10,000.

a. - b. ...

F. Ambulance

1. - 2. ...

3. The medical portion of the ambulance bill is to be considered as a medical cost and paid at the medical per cent consistent with all other claims for that claimant.

* * *

M. Crime Scene Evidence

1. For the board to consider compensation of a loss resulting from expenses associated with the collection and securing of crime scene evidence, the following may apply:

a. The board is not responsible for the replacement of damaged or stolen property but only for those losses resulting from the collection and securing of crime scene evidence.

b. The loss claimed must be for an item or items listed as evidence seized in the law enforcement report, and

c. the item or items must be either not returned or returned in a condition which renders it unusable.

d. Proof of purchase or an estimate for replacement with a comparable item from a recognized merchant must be furnished.

e. Items may be limited to clothing and bedding.

2. A forensic medical examination for a victim of sexual assault will be considered an expense associated with the collection and securing of crime scene evidence. This expense will be reimbursed at 100 percent.

AUTHORITY NOTE: Promulgated in accordance with R. S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996).

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